

### REMARKS

Claims 1-11 are at issue. Claim 1 has been cancelled and claims 2 and 3 have been amended to clarify the subject matter that the Applicants are claiming. Claims 2-11 are believed to be in condition for allowance. Entry of the amendment and allowance of the claims are requested.

### 35 U.S.C. § 112

Claims 1-11 were rejected according to 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has been cancelled. In claim 2 the phrases "is foldable" and "is fastenable to itself" and in claim 3 the phrase "is fastenable releasably" have been amended to clarify exactly what the Applicants intend to encompass within the claim language. Claims 4-11 depend from claim 2. Thus claims 1-11 should specifically and accurately describe the claimed invention.

### 35 U.S.C. § 102(b)

Claims 1-8 were rejected as being anticipated by US Patent 4,599,811 to Rousseau (Rousseau).

Claim 1 has been cancelled. Independent claim 2 recites "wherein the foot-covering portion is a single piece of foldable material..." Rousseau does not disclose this limitation. As a matter of law, "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschiinenfabrik GmbH v. American Hoist & Derrick Co.* 221 USPQ 481, 485 (1984); emphasis added. Thus, Rousseau does not anticipate claims 2-8.

Amendment  
Application No. 10/078,068  
July 23, 2003  
Page 5

**35 U.S.C. § 103(a)**

Claims 9-11 were rejected as being unpatentable over Rousseau in view of US Patent 4,458,431 to Sinclair (Sinclair) and US Patent 4,788,780 to Boggs (Boggs).

Claims 9-11 depend from claim 2 and as argued *supra*, Rousseau does not teach the claimed invention.

In addition, there is no teaching or suggestion in Sinclair or Boggs wherein the foot-covering portion is a single piece of foldable material and may be folded from the toe end towards the heel end and wherein the foot-covering portion includes fastening means to fasten itself when and where folded onto itself. Specifically, Boggs teaches away from folding the toe end towards the heel end as the toe end has a forwardly connecting projection member (14) to attach to a ski. Therefore, Rousseau in view of Sinclair and Boggs does not render claims 9-11 obvious under § 103(a).

[go to next page]

Amendment  
Application No. 10/078,068  
July 23, 2003  
Page 6

### CONCLUSION

Claims 2-11 are at issue. Claim 1 has been cancelled and claims 2 and 3 have been amended.

In view of Applicants' arguments and amendments herein, it is respectfully submitted all rejections against claims 2-11 have been traversed. Allowance of claims 2-11 is respectfully submitted.

Respectfully submitted,

By: Allen J. Hoover  
Allen J. Hoover  
Reg. No. 24,103

Wood, Phillips, Katz, Clark & Mortimer  
500 W. Madison Street – Suite 3800  
Chicago, Illinois 60661-2511  
Telephone: (312) 876-1800  
Facsimile: (312) 876-2020  
July 23, 2003